

U.S.N. 09/993,435

12

24001B

REMARKS

Claims 1-7 are currently pending in the above-entitled application. Claims 8-25 have been withdrawn from consideration, subject to affirmation by the Applicant. Claims 26-44 are added by the foregoing amendment.

Claims 8-25 are herein withdrawn from consideration without prejudice.

The oath or declaration stands rejected as being defective. A new data sheet is being filed along with the Response that complies with 37 C.F.R. 1.76(a). Consideration of the new data sheet is thus respectfully requested.

Claim 1 stands rejected under 35 U.S.C. 112, second paragraph as being indefinite because the Examiner is unclear what is meant by the phrases "chopped unfilamentized or partially filamentized fibers" and "filamentized fiber layer". Applicant respectfully traverses the Examiner's rejection.

In an attempt to ease the Examiner's understanding, Applicant has first modified claim 1 into two separate claims, now amended claim 1 and new claim 26. Thus, amended claim 1 new claims only "chopped unfilamentized fibers, while new claim 26 claims only to "partially filamentized fibers".

As one of ordinary skill understands, filaments are individual glass fibers of indefinite length, usually as pulled from a stream of molten glass flowing through an orifice of the bushing. In the operation, a number of filaments are gathered together (into "bundles") to make a strand or end of roving or yarn. The strands may be used in continuous form for filament winding; chopped into short lengths for incorporation into molding compounds or use in spray-up processes; or formed into fabrics and mats of various types.

U.S.S.N. 09/993,435

13

24001B

As one of ordinary skill further understands, as evidenced e.g. in USP 4,233,353 at column 3, lines 27-44, "unfilamentized", "partially filamentized", and "filamentized" relate to the degree fibers remain in a bundle (i.e. whether the fiber bundles separate into individual filaments).

Claim 1 now claims in relevant part: a plurality of chopped unfilamentized fibers (and) a resin impregnated filamentized fiber layer. Accordingly, claim 1 (and claim 26) claim chopped fibers – either unfilamentized or partially filamentized (i.e. filaments still substantially remaining in a bundle), plus a filamentized layer (i.e. filaments substantially separated from a bundle form).

Accordingly, it is thus respectfully suggested that amended claim 1, and newly present claim 26, are not indefinite. Reconsideration of claim 1 and consideration of claim 26 are thus respectfully requested.

Claim 2 stands rejected under 35 U.S.C. 112, second paragraph as being indefinite because the Examiner is confused by the phrase "when subsequently compacted". Applicant are confused by what the Examiner is trying to state. However, in an attempt to ease the Examiner's understanding, Applicant has modified claim 2, and newly presented claim 27, to read "when the single ply of the sheet molding composite sheet is subsequently compacted." This implies that the compaction process allows a portion of the resin from the first resin paste layer and resin impregnated filamentized fiber layer to impregnate the chopped unfilamentized (claim 2) or chopped partially filamentized fibers (claim 27) when subsequently compacted.

It is thus respectfully suggested that amended claim 2, and newly present claims 27, are not indefinite. Reconsideration of amended claim 2 and consideration of newly presented claims 27 are thus respectfully requested.

In addition, Applicant has added newly presented claims 33-42, in which the sheet molding composite sheet is a compacted sheet molding compacted sheet. Thus,

newly presented independent claim 33 mirrors claim 2, while newly presented independent claim 39 mirrors newly presented claim 27. Consideration of newly presented claims 33-42 is respectfully requested.

Claim 4 also stands rejected under 35 U.S.C. 112, second paragraph as being indefinite because the Examiner is confused by the phrase "a resin inhibitor". A resin inhibitor, as is well known to those of ordinary skill in the art and described in column 2, lines 46-50 of the Stoops reference (cited in the Office Action on page 12 and 13), functions to inhibit the crosslinking of the polyester resin at temperatures below its melting temperature. In the present invention, as seen in Table 1 on page 9 of the originally filed specification, PBQ (p-benzoquinone) is the resin inhibitor and T341 and T154 constitute the polyester resins to be crosslinked. As such, Applicant respectfully submits that the phrase "a resin inhibitor" is not indefinite. Reconsideration of claim 4, and newly presented claims 29, 35 and 41, is thus respectfully requested.

Claims 6 and 7 also stand rejected under 35 U.S.C. 112, second paragraph as being indefinite because they are allegedly indistinguishable from each other. Applicant respectfully traverses the Examiner's rejection. As stated above, filamentized fibers are a subset of all fibers, including filamentized, unfilamentized, and partially filamentized fibers. As such claim 6, as presented, is narrower in scope than claim 7. The claims are therefore distinguishable from one another and are thus not indefinite. Reconsideration of claims 6 and 7, and newly presented claims 31, 32, 37, 38, 43, 44, is thus respectfully requested.

Claims 1-3 stand rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 103(a) as obvious over Grisch (U.S. Patent No. 4,207,282). Claims 4-7 stand rejected under 35 U.S.C. 103(a) as being obvious over Grisch (U.S. Patent No. 4,207,282), as applied to claims 1 and 3. Applicant respectfully traverses the Examiner's rejection.

U.S.S.N. 09/993,435

15

24001B

As stated in the Office Action, Grisch discloses a method of making a reinforced polymer article, the process comprising providing a bottom carrier film layer; applying a first polyester resin layer onto the bottom carrier film layer; depositing chopped fibers (actually filaments) onto the first resin layer; providing a top carrier film layer; disposing a fabric layer comprising a continuous filament fiberglass mat onto the top film layer; applying a second polyester resin layer onto the fabric; laminating the first and second coated sheets; and compacting the laminated layers to form the article.

In Grisch, thus, filaments are used in two forms. First, they are formed into mats (the fabric layer 20). Second, they are chopped and applied to the first polyester layer (chopped layer 15).

The present invention, on the other hand, utilizes unfilamentized (new independent claim 1) or partially filamentized (new independent claim 26) fibers, not filamentized fibers (15) as in the Grisch disclosure. As Grisch requires chopped filamentized fibers, while the present invention utilizes chopped unfilamentized or partially filamentized fibers, the present invention, as disclosed in independent claims 1 and 26, are novel, notwithstanding the Grisch reference.

Section 2143 of the Manual of Patent Examining Procedure states that three basic criteria must be met for establishing a *prima facie* case of obviousness, stating:

"First, there must some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach all of the claim limitations."

"If the examiner does not establish a *prima facie* case, the applicant is under no

U.S.S.N. 09/993,435

16

24001B

obligation to submit evidence of nonobviousness." Section 2142 MPEP, ch. 2100, p. 110.

"When the references cited by the Examiner fail to establish a *prima facie* case of obviousness, the rejection is improper and will be overturned."¹ One cannot use hindsight reconstruction, picking and choosing among isolated disclosures in the prior art, to deny that the claimed invention is unobvious.²

Here, the Examiner has not established a *prima facie* case of obviousness because the reference does not disclose or suggest all of the limitations as contained in independent claims 1, 26, 33 and 39. Specifically, Grisch does not disclose the use of unfilamentized or partially filamentized fibers. As such, independent claims 1, 26, 33 and 39, and dependent claims 2-7, 27-32, 34-38, and 40-44 are not obvious in view of Grisch. Reconsideration of claims 1-7 and 26-44 is thus respectfully requested.

Claims 1-7 also stand rejected under 35 U.S.C. 103(a) as being obvious over the admitted prior art in view of Stoops (U.S. Patent No. 4,141,929) or Grisch (U.S. Patent No. 4,207,282).

Stoops et al. , as stated in the Office Action, teaches embedding continuous axially aligned filaments to the resin paste layer. Stoops, similar to the prior art and Grisch, does not therefore teach the use of chopped unfilamentized fibers or the use of chopped partially filamentized fibers in addition to a layer of resin impregnated filamentized fibers. As such, claims 1-7 and 26-44 are novel, notwithstanding the cited references. In addition, as described above, the Examiner has not established a *prima facie* case of obviousness because the references do not disclose or suggest all of the limitations as contained in independent claims 1 and 26, 33 and 39. Specifically, they do not disclose the use of unfilamentized or partially filamentized fibers. As such, independent claims 1, 26, 33 and 39, and dependent claims 2-7, 27-32, 34-38, and 40-44 are not obvious in view of the cited prior art. Reconsideration of claims 1-7 and 26-44 is thus respectfully requested.

¹ *In re Ochiai*, 71 F.3d 1565, 37 U.S.P.Q.2d 1127 (Fed. Cir. 1995), citing *In re Fine*, 837 F.2d 1071, 1075, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

² *In re Fine*, 837 F.2d at 1075.

U.S.S.N. 09/993,435

17

24001B

In view of the foregoing amendments and remarks, Applicant submits that claims 1-7 and 26-44 are allowable. The Examiner is invited to telephone the Applicant's undersigned attorney at (740) 321-7167 if any unresolved matters remain.

Respectfully submitted,

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